

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE REGULAR SESSION OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
December 17, 2009**

**\*CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Schlum called the meeting to order at 6:30 p.m.

**\*INVOCATION** – Dr. Paul Soderquist, Fountain Hills Presbyterian Church

**\*ROLL CALL**

Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Councilmember Brown, Vice Mayor Hansen, Councilmember Archambault and Councilmember Dickey. Town Manager Rick Davis, Deputy Town Manager Julie Ghatti, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

Mayor Schlum wished Councilmember Archambault a belated Happy Birthday.

**\*MAYOR'S REPORT**

(i) A review of upcoming community events.

Mayor Schlum advised that shopping and dining throughout Fountain Hills was in "full swing" and encouraged everyone to shop and dine in Town. He also wished everyone a very happy Hanukah, Merry Christmas and a happy New Year. The Mayor announced that on Saturday, January 2, 2010, at 8:00 a.m., there would be a guided hike through Fountain Hills McDowell Mountain Preserve called New Year's Resolutions, which started at the Golden Eagle Trailhead. He added that beginning at 9:00 a.m. there would be a Docent led Art Walk at the Community Center to view the public art.

Mayor Schlum asked Town Manager Rick Davis to explain the "Innovation Award" that he had crafted for staff.

Mr. Davis addressed the Council and said that it had been a year since they announced a program entitled "The Fountain of Innovation" program and challenged the Town's employees to bring forth ideas that would either financially decrease the cost of providing services without decreasing the level of service or increase the level of services without increasing costs. He reported that as of a couple of days ago they had 19 projects submitted and they want to "take their hats off" to staff who, despite the difficult circumstances they and the Town found themselves in during the economic downturn, came up with ideas to meet the challenging goals. He said that although all of the innovations were notable, the Town's Streets and Engineering Division went above and beyond and their innovations would save taxpayers nearly \$70,000 this fiscal year.

Mayor Schlum outlined the innovative ideas presented by the Division as follows: recycled rip rap donated by MCO Properties (valued at \$25,000) provided trenching materials to line six washes with the jagged pieces of rock to help prevent erosion during major rains and the monsoon; crack sealing of streets, whereby the Town discovered it could save nearly \$21,000 a year by using an outside company to handle this task (savings were primarily realized by not having to maintain the equipment necessary to do this job); cleaning of storm drains - the Town was now able to perform this mandated task by using their own vacuum street sweeper acquired with grant monies instead of paying a contractor (a net savings of nearly \$11,000 annually); LED lighting in traffic signals: the Town completed the installation of LED lights in all of its traffic signals and would save \$10,200 in power alone ; another step towards growing greener - recycling street signs: the Town saved nearly \$1,200 last

year by recycling the aluminum signs and received a credit for the creation of new signs; and towel service: the Street Division's staff now buys their towels instead of using a service and washes them right in the shop (a savings of nearly \$1,000 a year).

Mr. Davis said that this year the Town would award its first "Fountain of Innovation" award to the Streets and Engineering Division. Mayor Schlum congratulated the award recipients, thanked all of the Town's staff members who submitted ideas for this year's award and encouraged them to "keep the innovations coming."

The Mayor presented a plaque in appreciation of the Division's efforts to Public Works Director Tom Ward and expressed appreciation to him and his staff for their diligence, hard work and innovative suggestions that would benefit the entire community. Mayor Schlum also thanked Mr. Davis for bringing forth the idea for the "Fountain of Innovation" award program.

#### **\*SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

- (i) Financial Presentation by Jill A. Shaw, CPA, with the auditing firm of Heinfeld, Meech & Co., P.C. of the Town of Fountain Hills' Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ending June 30, 2009.

Ms. Jill Shaw, representing the auditing firm of Heinfeld, Meech & Co., P.C. addressed the Council and provided a brief overview of the Town of Fountain Hills' Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ending June 30, 2009. (CAFR on file in the office of the Town Clerk.) She expressed appreciation to Deputy Town Manager Julie Ghetti and her staff for their valuable assistance. She referred to page one of the document, the Auditor's Report, and reported that the Town received an unqualified ("clean opinion") again this year and said that her firm did not note anything in the numbers that would result in a material misstatement in the amounts and noted that that was always a wonderful thing. She encouraged everyone to read the Management's Discussion and Analysis, which started on page 5 and explained that it was designed to provide a quick overview of the numbers (highlights, what changed from the prior year, etc.). She noted that the General Fund balance ended in a positive position with a surplus this year and said that on page 8 total net assets (the bottom line for the Town less any debts/liabilities) only went down less than 1%. Ms. Shaw highlighted several portions of the report and noted that the Statistical Section at the end of the report covers a trend of ten years.

Mayor Schlum thanked Ms. Shaw for her presentation.

Councilmember Archambault commented on the fact that the report was what the bonding companies look at and said that they did this so that they could maintain a good bond rating. He said that the bonding companies looked at the Town's debt service and assets and it said whether or not the Town was viable (the health of the Town and how it was doing).

Councilmember Leger stated that he found it interesting in looking at the Statistical Section that the number of Town full time employees in 2002 was higher than it was today, despite the fact that the Town's population had increased significantly. He said that this pointed to a high level of efficiency Town wide. He pointed out that in the front of the report it stated that the Finance Department had received a Certificate of Achievement for Excellence in Financial Reporting and asked who that was awarded by.

Ms. Shaw replied that it was awarded by the Government Finance Officers' Association (GFOA).

Councilmember Leger and the rest of the Council commended the Finance Department's staff for this achievement (the seventh consecutive award they had received).

- (ii) Presentation by Public Safety Advisory Commission regarding the Public Safety Day event scheduled for February 13, 2010.

Public Safety Advisory Commissioner George Aliory addressed the Council relative to this agenda item and reported that the Public Safety Day event this year would take place on February 13, 2010, with a 9:00 a.m. setup with the event itself beginning at 10:00 a.m. and ending at 2:00 p.m. He noted that the Public Safety Advisory Commission, in conjunction with the Fountain Hills Fire Department and the Maricopa County Sheriff's Office, would present this event. He advised that the proposed location was Fountain Park in the main parking lot. Mr. Aliory highlighted a brief presentation on the event (Presentation on file in the office of the Town Clerk) and discussed numerous agencies that had been invited to attend, proposed activities, the actual event location and layout.

Mayor Schlum thanked Commissioner Aliory, the entire Commission, and everyone else involved for their hard work in putting together this exciting and informative event. He encouraged everyone to attend and express their appreciation to the public safety personnel who protect the Town of Fountain Hills.

Public Safety Advisory Commission Chairman Larry Moyse addressed the Council and expressed appreciation to the staff at Rural Metro and all of the other participants for their assistance.

Councilmember Dickey asked whether the Edith House would be involved (up and running again thanks to Sunset Kiwanis) and Assistant Fire Chief Randy Roberts said that he believed they did a big cleanup project on it; and hopefully, it would be ready to go. He added that there would be a few other agencies involved including the LDS Church (working on 72-hour kits, County Emergency, etc.). He said that the Commission had done a great job on this event to honor public safety personnel but they wanted to put it back on the personal preparedness issue and discussed the numerous helpful demonstrations that were planned to take place.

#### **\*CALL TO THE PUBLIC**

Charlotte McCluskey addressed the Council and provided a brief update on the Art Walk on the Avenue project. She reported that she was in the process of interviewing and signing up artists at this time and she was coaching them on how to obtain their tax I.D.s and business licenses in order to participate in the event. She said that one of the reasons they were doing this was to get foot traffic on the Avenue as well as to increase people's awareness of the importance of supporting the artists and everyone in the retail business in Town. She stated that she was getting information out on the event and encouraged the members of the Council to contact her if they had any questions.

Mayor Schlum thanked Ms. McCluskey for her efforts in this area.

#### **\*CONSENT AGENDA**

Vice Mayor Hansen requested that Items #1 and #6 be removed from the Consent Agenda and placed on the Regular Agenda.

**AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM NOVEMBER 10, 2009 AND DECEMBER 3, 2009. (NOTE: REMOVED FROM CONSENT AGENDA AND PLACED ON REGULAR AGENDA.)**

**AGENDA ITEM #2 – CONSIDERATION OF APPROVING RESOLUTION 2009-41, GRANTING A POWER DISTRIBUTION EASEMENT TO SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.**

**AGENDA ITEM #3 – CONSIDERATION OF APPROVING RESOLUTION 2009-42, GRANTING AN EASEMENT TO CRICKET COMMUNICATIONS, INC.**

**AGENDA ITEM #4 – CONSIDERATION OF APPROVING THE EXTENSION OF THE EXPIRATION DATE FOR TERMS ON THE STRATEGIC PLANNING ADVISORY COMMISSION FROM FEBRUARY 29, 2010 TO JUNE 30, 2010.**

**AGENDA ITEM #5 - CONSIDERATION OF APPROVING THE APPOINTMENT OF COUNCILMEMBER DENNIS BROWN, COUNCILMEMBER DENNIS CONTINO AND COUNCILMEMBER HENRY LEGER TO SERVE ON THE TOWN COUNCIL REVIEW SUBCOMMITTEE FOR THE PURPOSE OF REVIEWING APPLICATIONS, INTERVIEWING APPLICANTS AND SUBMITTING A RECOMMENDATION TO THE MAYOR FOR CITIZENS' APPOINTMENTS TO THE BOARD OF ADJUSTMENT.**

**AGENDA ITEM #6 - CONSIDERATION OF APPROVING NOT RENEWING THE TOWN OF FOUNTAIN HILLS COMMUNITY CENTER'S CLASS 5 LIQUOR LICENSE AT THE TIME OF EXPIRATION, JANUARY 30, 2010. (NOTE: REMOVED FROM CONSENT AGENDA AND PLACED ON REGULAR AGENDA.)**

Councilmember Dickey **MOVED** to approve the Consent Agenda as amended (excluding items 1 and 6) and Vice Mayor Hansen **SECONDED** the motion. A roll call vote was taken with the following results:

Councilmember Contino	Aye
Vice Mayor Hansen	Aye
Councilmember Leger	Aye
Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Brown	Aye
Councilmember Archambault	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

**REGULAR AGENDA**

**AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM NOVEMBER 10, 2009 AND DECEMBER 3, 2009. (NOTE: REMOVED FROM CONSENT AGENDA AND PLACED ON REGULAR AGENDA.)**

Vice Mayor Hansen explained that there was an addition made to the minutes of December 3rd that she felt could not be substantiated, mainly because they had two Dennis' who sit right next to each other. She **MOVED** to approve the minutes from November 10th and December 3rd removing the addition.

Mayor Schlum commented that the addition was suggested by Councilmember Archambault.

Councilmember Archambault said that this was a clarification move because as he was watching the meeting he saw Mr. Kelly turn toward Dennis and ask if the number he had cited was correct (he believes he was talking to Councilmember Contino). He added that they could certainly put this item on hold for approval and go back and talk to Mr. Kelly to find out who he was talking to. He stated that he felt that it was important because it carried over into another agenda item where Councilmember Leger addressed the \$800,000 issue.

Councilmember Contino advised that Mr. Kelly did not specify which Dennis he was talking to. He indicated that he did not nod or say anything in response and he felt it was unjust for that.

Mayor Schlum said that what he was hearing was that no one was disputing what was said but rather who the remark was directed toward.

The Vice Mayor stated that she believed it was making an assumption rather recounting just what took place in the minutes. She added that they should not be making assumptions in the minutes.

Mayor Schlum advised that since only the first name was given and not a last name then he was comfortable with the minutes just reflecting the first name. The Mayor said that everyone seemed to be comfortable with proceeding in that manner.

Vice Mayor Hansen **MOVED** to modify the minutes to change the wording referred to from "Councilmember Contino" to just "Dennis" and Councilmember Contino **SECONDED** the motion.

Councilmember Archambault said that ensuring that the minutes were correct was very important because they remain in perpetuity. He added that it would not be that hard to go back to Mr. Kelly and clarify which Dennis he was talking to and then they could clarify that in the minutes.

Town Attorney Andrew McGuire advised that they were using written minutes that reflect what was spoken so it was probably more accurate to stick with just the first name knowing that they also preserve the video as well.

Councilmember Archambault asked if the videos were kept in perpetuity and Mr. McGuire replied that they were not kept as long as the written minutes (the official public record) but based on the fact that everything was moving towards electronic records storage, it was less and less likely that they would be getting rid of the videos as quickly as they were now. Councilmember Archambault said that would be fine with him as long as they kept the video.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #6 - CONSIDERATION OF APPROVING NOT RENEWING THE TOWN OF FOUNTAIN HILLS COMMUNITY CENTER'S CLASS 5 LIQUOR LICENSE AT THE TIME OF EXPIRATION, JANUARY 30, 2010. (NOTE: REMOVED FROM CONSENT AGENDA AND PLACED ON REGULAR AGENDA.)**

Vice Mayor Hansen advised that today she had received some additional information regarding this agenda item and said that she thought the Council was looking at not renewing it in an effort to solve problems with the Town's non-profits obtaining liquor licenses for the Community Center. She said that she had thought that they were under the assumption that in order for them to do that they could not have their existing Series 5 License for the Community Center. She stated that she was told by the Liquor Department that they could indeed have both (i.e. if one of the ballrooms was being used for a special event such as a dinner by the Historical Society, the Town's Class 5 License could be used by the Chamber – business showcase – that type of event could take place using the Town's liquor license). She reported that the only prohibition was that they could not have alcohol from one event crossing over into alcohol at the other event but they could have both licenses.

The Vice Mayor added that she did know that some revenue was generated as a result of the license issuance and so she had thought that having this additional information prior to rendering a decision was important.

Mayor Schlum asked Vice Mayor Hansen whether she was looking to “table” this item and she replied that she would like for that to happen.

Vice Mayor Hansen **MOVED** to table this item and Councilmember Leger **SECONDED** the motion.

Councilmember Archambault requested clarification as to whether this item would be tabled indefinitely or until Samantha came back with more information.

Vice Mayor Hansen advised that they would have to consider this item prior to the end of January 2010 when the license expires.

Mayor Schlum advised that they would “table” this item until the next Regular Council meeting.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #7 – RECONSIDERATION OF ORDINANCE 09-09, AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDING REGULATIONS, ARTICLE 7-10, DEVELOPMENT FEES, RELATING TO ADJUSTMENTS TO DEVELOPMENT FEES FOR THE TOWN OF FOUNTAIN HILLS.**

Mayor Schlum advised that Councilmember Contino requested that this item be placed on the agenda for reconsideration.

Councilmember Contino stated that following the vote on this item at the last meeting, he realized too late that the percentage of increases to the residential and multi-family impact fees were 100% as recommended by the consultant. He said that he could and did support the minimal increase for the commercial and industrial fees but he could not support the 100% increase to residential and multi-family fees. He added that as a member of the prevailing side of the vote he would like to make a motion to reconsider the ordinance.

Councilmember Contino **MOVED** to reconsider Ordinance 09-09 amending the Fountain Hills Town Code, Chapter 7, Building Regulations and Article 7-10, Development Fees relating to adjustments to development fees for the Town of Fountain Hills and Vice Mayor Hansen **SECONDED** the motion.

Mr. McGuire advised that the item was open for discussion purposes as far as the motion for reconsideration.

Councilmember Dickey asked if the Council voted to reconsider whether the entire topic would come back up again and Mayor Schlum responded it would.

In response to a request from Councilmember Archambault regarding what would be appropriate to discuss at this time, Mr. McGuire stated that the only topic that could be discussed under this motion was whether or not the Council wants to reconsider the last vote and bring it back for full discussion. He added that if that motion passes, then the ordinance would come back for consideration as if it were brand new.

Councilmember Archambault asked whether he could question Councilmember Contino regarding his decision to reconsider. Mr. McGuire responded that Councilmember Archambault could certainly pose the question through the Mayor and then if Councilmember Contino wanted to respond he could. Councilmember Archambault said that he would “let it go.”

Mayor Schlum said that Councilmember Contino had verbalized his request for reconsideration of his affirmative vote at the last meeting to be in the majority at the time and questioned the residential aspect of the

increase and now he was coming forward because he was not comfortable with that and was requesting that the Council reconsider the issue on its whole once again.

Councilmember Contino added “on the residential/multi-family” and the Mayor said that that would bring the whole thing up.

Councilmember Leger stated that he found this to be a very interesting situation himself and said that he respected the right of any Council person to reflect on his/her affirmative vote and to change his/her vote. He expressed the opinion that Councilmember Contino had very clearly articulated his point of view in his written statement, which now would be officially recorded for posterity in the minutes. He added that Councilmember Contino’s opinion would be clear to anyone who read the minutes in the future and people could be referred back to the minutes should a question on this issue be raised in the future. He further stated that he could not support reconsideration of the motion and noted that the Council had this discussion in great detail for well over a year and he did not believe the issue could be any more crystal clear to him at the previous meeting when the numbers were presented by Councilmember Brown. He said that they were repeated, the vote was repeated and clarified, so although he respected his peer’s request to change his vote, which would be reflected in the official minutes of this meeting, he could not support reconsideration of an issue that had been “through the ringer” for a significant amount of time.

Mayor Schlum commented that he generally echoed Councilmember Leger’s statements and was not in favor of reconsideration. There being no further discussion on reconsideration, the Mayor called for the vote.

The motion **FAILED** by majority vote (1-6) with Councilmember Contino voting Aye.

**AGENDA ITEM #8 – CONSIDERATION OF A TEMPORARY USE PERMIT FOR THE TOWN CENTER MERCHANTS GROUP REPEATING OUTDOOR RETAIL SALES EVENTS FOR 2010. CASE #TU2009-06.**

Planner Gene Slechta addressed the Council relative to this agenda item and advised that Lori Gary, representing the Town Center Merchants Group, had requested that the Town Center Merchants Group be allowed to conduct outdoor retail sales and displays on days coinciding with the many holidays and special events occurring in the Town for the calendar year 2010. He noted that the events were of the same nature that this Council had approved for calendar year 2009. He said that most Temporary Use Permits were approved administratively, however, multiple, re-occurring like use events such as these outdoor retail sales events required review and approval by the Town, as stipulated in the Zoning Ordinance. He reported that the events would run from 8:00 a.m. to 9:00 p.m. on the approved dates and added that merchandise displayed and sold must be associated with the business itself. He said that as outlined in Lori’s narrative, special signage would be allowed on Saguaro Boulevard and Avenue of the Fountains for up to six events. He stated that in addition, each business would be allowed some signage that met the current Sign Ordinance guidelines. He advised that the request had been posted and notices were mailed and staff had not received any inquiries and/or objections.

Mr. Slechta referred to a map of the Town Center and a list of the dates originally requested by the Group contained in the Council’s packets. He added, however, that following closer scrutiny a few days ago it was noticed that the total number of days requested exceeded the 50 allowed by the Ordinance and so Lori met with the Group and pared down the number of days to ensure compliance. He requested that the Council consider the revised dates and approve the request for the Temporary Use Permit, subject to the stipulations as outlined in the staff report and the revised dates presented this evening. Mr. Slechta indicated his and Ms. Gary’s willingness to respond to questions.

Mayor Schlum thanked Mr. Slechta for his presentation.

Councilmember Archambault **MOVED** to approve Temporary Use Permit #2009-06 (#TU2009-06) for the Town Center Merchants Group for Repeating Outdoor Retail Sales Events for 2010, subject to stipulations outlined in the staff report and Councilmember Leger **SECONDED** the motion.

There were no citizens wishing to speak on this agenda item.

Mayor Schlum advised that he liked the revised dates and said that they seemed to bring a little more focus and hopefully would garner greater attraction to the various events. He added that the Council had proven that they were in favor of supporting the businesses and helping them succeed.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #9 – CONSIDERATION OF A TEMPORARY USE PERMIT FOR THE PLAZA FOUNTAINSIDE, LOCATED AT 12645 N. SAGUARO BOULEVARD, FOR REPEATING OUTDOOR RETAIL SALES EVENTS FOR 2010. CASE # TU2009-05.**

Mr. Slechta addressed the Council relative to this agenda item and explained that this was another request for a Temporary Use Permit for outdoor retail art sales. He noted that Diane Czernicki and Dixie Green, on behalf of Plaza Fountainside business owners, was requesting that the Plaza be allowed to conduct outdoor retail sales, art sales in particular, on a number of days (mostly on the first Saturday of each month and during the two large arts and crafts fairs). He said that since the request was for multiple days, the item required Town Council approval. He pointed out that the events were for calendar year 2010 and would run from 10:00 a.m. to 5:00 p.m. on the dates listed in the spreadsheet contained in the Council's packets. He stated that the events were of the same nature as those held in 2009. Mr. Slechta referred to an aerial photograph of the Plaza Fountainside property and said that events would be held in the rear and south side of the property as they were in 2009. He also referred to the 23 dates that were being requested and said that the request was posted and notices were mailed and staff had not received any questions and/or objections. He urged the Council to support this request subject to the stipulations outlined in the staff report.

Vice Mayor Hansen **MOVED** to approve Temporary Use Permit 2009-05 (#TUP09-05) for the Plaza Fountainside outside retail sales for repeating events for 2010 subject to stipulations outlined in the staff report and Councilmember Archambault **SECONDED** the motion.

There were no citizens wishing to speak on this agenda item. The motion **CARRIED UNANIMOUSLY** (7-0).

Mayor Schlum thanked Mr. Slechta for his presentation.

**AGENDA ITEM #10 – PUBLIC HEARING REGARDING ORDINANCE 09-13, A TEXT AMENDMENT TO THE TOWN OF FOUNTAIN HILLS ZONING ORDINANCE, CHAPTER 6, SIGN REGULATIONS, SECTIONS 6.08B.13, 6.08.D.3, 6.03.A.13, AND 6.08.B.4. THE AMENDMENTS EXTEND THE EXPIRATION DATE TO DECEMBER 31, 2010, FOR A-FRAME SIGNS AND BANNERS FOR SPECIAL SALES EVENTS AND INCLUDE A REQUIREMENT FOR A PERMIT FOR A-FRAME SIGNS AND CLARIFICATION OF THE PURPOSE OF AN A-FRAME SIGN.**

Mayor Schlum declared the public hearing open at 7:22 p.m.

Mr. Slechta addressed the Council relative to this agenda item and said that this was a public hearing to receive comments regarding text amendments proposed for the Town's Sign Regulations, particularly A-frame signs



and banners for special sales events. He noted that A-frame signs and banners for special sales events had expiration dates for December 31<sup>st</sup> of this year. He reported that staff conducted an open house in October to receive feedback from businesses and residents regarding A-frame sign usage and that feedback was shared with the Council on November 5<sup>th</sup> along with information on business compliance. He advised that Council directed staff to initiate text amendments to these regulations and bring them back to Council before year end. He noted that staff and the Town Attorney drafted Ordinance 09-13 amending the sign regulations addressing Council's request.

Mr. Slechta reported that the Planning & Zoning Commission held a public hearing on November 30<sup>th</sup> and the Commission forwarded their unanimous recommendation to approve the amendments. He further stated that at the November 5<sup>th</sup> Town Council meeting, the Council had directed staff to make the following changes:

- Extend the expiration date for A-frame signs to December 31, 2010
- Extend the expiration date for banners, balloons and pennants used for events such as special sales events for sixty (60) consecutive hours, or less, per month
- Clarify verbiage regarding "promotional" purposes only
- Require A-frame sign owners to apply for a permit

Mr. Slechta referred to the proposed text amendments contained in the Council's packets and stated that Chapter 6, Subsection 6.03.A.13 was an item with a longer list of signs in the Zoning Ordinance that were exempt from requiring a permit. He said that by removing item 13, a reference to A-frames, they lost their exemption from requiring a permit.

Mr. Slechta added that to clarify the term "promotional," staff had added verbiage to indicate that the signs were not to provide direction to the businesses. He stated that finally there were two sections (one each for A-frames and banners) that staff was proposing to modify in order to extend the expiration date one year. He said that staff was working on a process to begin issuing permits for 2010 in January when they intended to have the business owners come into Town Hall so that staff could explain the details of the ordinance, discuss their planned sign usage, and issue stickers (permits) for their signs. He advised that staff would be proactive and visit as many businesses as possible to inform them of the new ordinance and seek assistance from others, such as the Chamber, to get the word out.

Mr. Slechta informed the Council that Planning & Zoning Commission had forwarded their recommendation for approval of the proposed text amendments to the Council and that staff also recommended approval of the amendments as proposed. He noted that one small item remained – there had been a lot of discussion about a sign permit fee and he believed that the consensus was to have an annual \$5.00 fee for the commercial A-frame signs. He said that if that was the Council's desire, he would suggest that there be an amendment to the motion to amend the Town Fee Schedule to include a new \$5.00 fee for commercial A-frames. Mr. Slechta indicated his willingness to respond to questions from the Council. Mayor Schlum thanked Mr. Slechta for his presentation.

There were no citizens wishing to speak on this agenda item and the Mayor declared the public hearing closed at 7:26 p.m.

**AGENDA ITEM #11 – PUBLIC HEARING REGARDING ORDINANCE 09-13, A TEXT AMENDMENT TO THE TOWN OF FOUNTAIN HILLS ZONING ORDINANCE, CHAPTER 6, SIGN REGULATIONS, SECTIONS 6.08B.13, 6.08.D.3, 6.03.A.13, AND 6.08.B.4. THE AMENDMENTS EXTEND THE EXPIRATION DATE TO DECEMBER 31, 2010, FOR A-FRAME SIGNS AND**

**BANNERS FOR SPECIAL SALES EVENTS AND INCLUDE A REQUIREMENT FOR A PERMIT FOR A-FRAME SIGNS AND CLARIFICATION OF THE PURPOSE OF AN A-FRAME SIGN.**

Councilmember Dickey **MOVED** that the Council approve Ordinance No. 09-13, a text amendment to Chapter 6 of the Town of Fountain Hills Zoning Ordinance to include a \$5.00 annual fee for commercial A-frame signs (amend the Fee Schedule from now until the next budget cycle) and Councilmember Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #12 - PUBLIC HEARING ON ADOPTING THE TOWN OF FOUNTAIN HILLS GENERAL PLAN 2010.**

Mayor Schlum declared the public hearing open at 7:27 p.m.

Planning & Zoning Director Richard Turner addressed the Council relative to this agenda item. He said that this was almost the very last step in a very long process that began over two years ago. He noted that if the Council approved the new General Plan this evening, it would be on the May 2010 ballot. He explained that State law required that the voters of a community ratify their General Plan at a General Election and also required a two-thirds vote of the Council in order to adopt the General Plan (five affirmative votes of the Council). He advised that the existing General Plan was approved on June 20, 2002, and was ratified by the voters on September 10<sup>th</sup> of that same year. He said that it satisfied the Growing Smarter Act and Growing Smarter legislation and also updated the original General Plan for Fountain Hills that was adopted in 1993.

Mr. Turner highlighted a presentation on this agenda item (Presentation on file in the office of the Town Clerk) and discussed:

- Changes that had taken place since the adoption of the 2002 General Plan
- General Plan 2010 Review Process
- Changes from the 2002 Plan to the 2010 Plan
- Future General Plan amendments
- The Downtown Vision Plan
- New General Plan Feedback (public comments, staff comments, Mr. Williams, Councilmember Dickey's comments, etc.)

Mr. Turner referred to the General Land Use Plan for the new General Plan and noted that the Planning & Zoning Commission also added a new objective regarding trails in washes. He pointed out that the Town Code required a vote of the residents for any development in washes, with the exception of that one new objective, staff was in agreement with the unanimous recommendation of the Planning & Zoning Commission, which was to approve the General Plan. He added that their recommendation addressed the changes that had been proposed by the Strategic Planning Advisory Commission chair, Councilmember Dickey's comments, Fountain Hills Investment Company's (formerly known as Ellman) comments, the comments of the Public Works Director, etc. He pointed out that all of those comments were summarized for the Council in a sheet that he electronically provided the other day and had also placed in their mailboxes. He said that it was the recommendation of staff that the Council approve Resolution 2009-43 adopting the new General Plan 2010 with amendments. He reiterated that five affirmative votes were required for passage. Mayor Schlum thanked Mr. Turner for his presentation.

Councilmember Archambault requested that Mr. Turner speak to item #13 on the sheet that he provided pertaining to the trails in the washes.

Mr. Turner explained that that was added by the Planning & Zoning Commission and noted that there was some testimony offered at the Commission's public hearings supporting the creation of this objective and they created it at the last meeting and added it to the list. He added that having conducted some investigation afterwards, they noted that it conflicted with the existing provisions in the Town Code (any development in washes required a vote of the Town residents).

Councilmember Archambault said that if they were to move forward with item #13 (noting that staff's recommendation not to approve item #13) that any development that occurred in a wash (even a lightly maintained trail) would have to go a vote of the registered voters and Mr. Turner concurred with Councilmember Archambault's statement.

Councilmember Archambault commented he was not for getting into this as the voters had told the Council what they wanted and that was why the provision was included in the Code. He expressed surprise that Planning & Zoning did not look at that before passing on their recommendation.

Mr. Turner said that he was probably at fault for that as he was not fully aware of all the implications of this at the time but he noted that he did state that he believed there was a conflict with the Town Code (he believed that was reflected in the draft minutes). He added that he could have perhaps been a little more definitive.

Councilmember Archambault asked whether item #13 would be excluded if the motion was made as suggested, or did they specifically have to add that to the motion; Mr. Turner expressed the opinion that the Council could approve the resolution with all of the amendments with the exception of item #13.

Councilmember Leger said with respect to the Planning & Zoning Commission's drafting of item #13 to allow possible trail access development in washes; he appreciated the clarification but also wanted to respect the spirit of the folks who had made that particular recommendation. He agreed, however, that there was no need to have that in the General Plan since the Code already stated that the matter would require a General Election. He added that in looking at the Town Code there was also a provision (9-3-4) in there, which was similar to what P&Z proposed, that talked about if this was brought up, a process was in place, it was investigated, all of the areas were looked at, they would consider changes in the Town, etc. and then it would go to a vote. He summarized by saying that the Town Code did enable the process and Mr. Turner concurred the Town Code provided for those studies, investigations, and a vote to take place.

Councilmember Dickey discussed the fact that Mr. Williams had provided input and additional input was received today. She asked what the timing limitations would be in order to place the issue on the May ballot.

Discussion ensued relative to deadlines and the proposed election timeline. Town Attorney McGuire clarified that the Council had two opportunities (this meeting or the first meeting in January 2010) and Town Clerk Bender indicated that the second meeting in January would be too late.

Councilmember Dickey expressed the opinion that Mr. Williams had offered many good points that could be pursued separate from this document. She discussed the air items (i.e. ozone vs. PM10 and other things like that) noting they could use clarification because this document could exist for quite a while. She thanked Mr. Turner for speaking to Maricopa County (Frank Schinzel) because she felt he was very helpful. She stated Mr. Schinzel indicated to her that they were very happy to help and if anyone had questions about that they could go further with that. She said to be confident that Mr. Turner had gone to the Clean Air Make More.

In response to a question from the Mayor, Ms. Bender advised that two citizens had submitted requests to speak.

George Burke, 17237 E. Grande Boulevard, addressed the Council and discussed the issue of using Grande Boulevard as a truck route. He pointed out that there was a shorter direct road within the Reservation to the Verdes that would save significant fuel and offer relief for the residents and pointing out that Verde residents use this route for access to the casino or Highway 87. He discussed the disparity between garbage trucks not being able to start routes before 6 a.m. vs. the concrete and material trucks being able to travel the streets 24 hrs a day disrupting residents' sleep and quiet. He noted this was his third attempt to have this problem corrected. He said the problem was that E. Grande was designated a truck route even though it was totally residential; one lane east and one lane west, with pedestrians using the street amongst the truck traffic. He expressed additional concerns for the future: safety during the construction of the Ellman property, possible property devaluation, and that the residents would not achieve the height of desert living in Fountain Hills.

Norman Thorpe addressed the Council and encouraged the Council to make sure that there was language in the General Plan that encouraged the development of trails in Fountain Hills. He emphasized that they were a resource that made the Town a much more pleasant place to live and made it attractive so people buy property and that it enhanced property values.

Mayor Schlum thanked the speakers for their comments.

Mr. Turner advised that proposed amendment #12 would address Mr. Burke's concerns and noted that it stated that the Town would work with the Fort McDowell Yavapai Nation relating to changing the designation of Grande Boulevard as a truck route.

Mr. Turner added that relating to Mr. Thorpe's comments regarding the trails, if the Council wished to leave in something encouraging relative to unpaved trails and omit the washes with regard to #13, they could exclude the phrase that began, "including trails that could be built in washes" and the conflict could be eliminated. He added that the objective would then say that, "The Town should investigate the development of unpaved trails within the Town's limits that provide opportunities for recreation, enjoyment and use of the Sonoran Desert subject to the appropriate findings and studies in places where they had little impact on residential developments and natural wildlife." Mayor Schlum thanked everyone for their input and declared the public hearing closed at 7:49 p.m.

**AGENDA ITEM #13 - CONSIDERATION OF RESOLUTION 2009-43, ADOPTING THE TOWN OF FOUNTAIN HILLS GENERAL PLAN 2010, AND CALLING A SPECIAL ELECTION TO BE HELD ON MAY 18, 2010, FOR VOTER RATIFICATION OF THE NEW GENERAL PLAN, AS REQUIRED BY STATE LAW.**

Councilmember Dickey **MOVED** to approve Resolution 2009-43 adopting the Town of Fountain Hills General Plan 2010 and calling a Special Election to be held on May 18, 2010, for voter ratification of the new General Plan, as required by State law and as just discussed (including the clarification outlined by Mr. Turner) and Councilmember Archambault **SECONDED** the motion.

Vice Mayor Hansen stated that she would be more comfortable waiting until the first meeting in January to take this action since the Council received two pages of amendments just yesterday and they still did not have approved minutes from the Planning and Zoning Commission, just draft minutes. Mr. Turner advised that the Planning & Zoning Commission was not scheduled to meet until the 14<sup>th</sup> of January, which was after the next Council meeting.

Mayor Schlum said that short of receiving approved minutes, if the Council wanted to consider bringing this item back at the first meeting in January, they certainly could do so by their vote. He stated that this would provide an additional two weeks for information to be reviewed.

Vice Mayor Hansen added that because of the amendments, she was wondering whether this was something that would have to be reposted.

Mr. McGuire expressed the opinion that the changes were not substantial enough to require a reposting.

Vice Mayor Hansen **MOVED** to continue this agenda item to the first meeting in January and Mayor Schlum **SECONDED** the motion.

Councilmember Dickey asked if the continuance would result in any problems for staff, etc. and Mr. McGuire advised that he could not think of any reason why the continuance would be an issue.

Councilmember Archambault said that he was not seeing any compelling reason to continue this item and asked how many public meetings had been held. Mr. Turner replied that they had the public open house in September, two Work Studies, two public hearings in front of the Planning Commission and this public hearing. Councilmember Archambault commented on the fact that they were getting into the holiday season and said that he was not sure what they would gain by continuing the item as there had been plenty of opportunity for comment. He said he could not support continuing.

Councilmember Leger asked if they continued this item whether staff would bring this back with revised language regarding item #13. Mr. Turner replied that he would not make any changes other than the ones he introduced this evening. He confirmed that the agenda item would include item #13 with the new language.

A roll call vote was taken with the following results:

Vice Mayor Hansen	Aye
Councilmember Brown	Nay
Councilmember Archambault	Nay
Councilmember Contino	Aye
Councilmember Leger	Nay
Mayor Schlum	Aye
Councilmember Dickey	Aye

The motion **CARRIED** by majority vote (4-3).

**AGENDA ITEM #14 - PUBLIC HEARING TO RECEIVE COMMENTS ON RESOLUTION 2009-40, A PROPOSED DOWNTOWN FOUNTAIN HILLS AREA SPECIFIC PLAN, WHICH OUTLINES THE PROPOSED DEVELOPMENT PATTERNS AND LAND USES FOR THE DOWNTOWN AREA. CASE #ASP2009-01.**

Mayor Schlum declared the public hearing open at 7:56 p.m.

Senior Planner Bob Rodgers addressed the Council relative to this agenda item and explained that the Fountain Hills Area Specific Plan was the result of a joint process between the Chamber of Commerce, the Town Council and Swaback Partners in order to better align the downtown core area with its future development potential. He explained that the plan was presented to citizens through open public forums in which participants asked questions and provided opinions/advice/insight. He said that the final plan was the product of months of

research, staff reviews, Town Council reviews, focus groups and public forums. He added that the plan took a comprehensive look at the entire downtown area and outlined a number of possible scenarios for its current and long-range development, vitality and sustainability. He stated that they had analyzed the strengths and weaknesses of the current downtown, looked at the traffic (both vehicular and pedestrian and both existing and expected) and looked at parking (both existing and expected). He advised that they also looked at walking distances to points throughout the downtown in relation to the parking areas. He reported that the result of this process was a Downtown Area Specific Plan that contemplated nine (9) separate districts, each with a unique character of its own that would also blend with other districts to form a cohesive downtown theme. (Presentation was on file in the office of the Town Clerk.)

Mr. Rodgers briefly highlighted each of the nine districts and said that in addition to adding more trees to the park, the Plan encouraged a general “greening” of the vacant areas throughout the downtown and noted that this would help enhance the downtown and lessen the visual impacts of vacant lots. He added that the Plan also had numerous recommendations for streetscape enhancements throughout the downtown area. He noted that the Plan had been designed to be flexible, proactive, created a vibrant and successful downtown, and would help in targeting specific development for specific locations. He further stated that it would act as a guide for future developers who wanted to see where the Town would like to go and what it would like to see. He pointed out that it would assist in the creation of marketing and research materials, and strategies that would help create an attractive atmosphere for businesses and customers and enhance the residents’ quality of life while attracting new visitors.

Mr. Rodgers pointed out that the Town Council had already approved the Downtown Vision and directed staff to process that plan as the Area Specific Plan. He said that the Planning & Zoning Commission held their public hearings on November 30<sup>th</sup> and December 10<sup>th</sup> and had forwarded a recommendation to the Council to approve the Area Specific Plan. He added that staff also recommended approval of the Plan and indicated his willingness to respond to questions from the Council.

Mayor Schlum thanked Mr. Rodgers for his presentation.

There were no citizens wishing to speak on this agenda item and the Mayor declared the public hearing closed at 8:02 p.m.

**AGENDA ITEM #15 - CONSIDERATION OF RESOLUTION 2009-40, ADOPTING THE DOWNTOWN FOUNTAIN HILLS AREA SPECIFIC PLAN, WHICH OUTLINES THE PROPOSED DEVELOPMENT PATTERNS AND LAND USES FOR THE DOWNTOWN AREA. CASE #ASP2009-01.**

Councilmember Contino **MOVED** to approve Resolution 2009-40, adopting the Downtown Fountain Hills Area Specific Plan and Councilmember Archambault **SECONDED** the motion.

Mayor Schlum asked whether it would make sense to continue this in light of the General Plan being continued. Mr. McGuire expressed the opinion that it was not required to move this after the General Plan and staff placed it there because of the order in which they believed the two items would be adopted. He said that the General Plan anticipated all of the Specific Area Plan’s ideals in it so that when it was adopted it would incorporate everything that was in the Plan. He stated that it was placed on the agenda in that order because it made sense but he did not know that adopting one before the other would be necessarily problematic for them. He noted that it all essentially went to the voters through the ratification of the General Plan anyway.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #16 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER. ITEMS LISTED BELOW ARE RELATED ONLY TO THE PROPRIETY OF (i) PLACING SUCH ITEMS ON A FUTURE AGENDA FOR ACTION OR (ii) DIRECTING STAFF TO CONDUCT FURTHER RESEARCH AND REPORT BACK TO THE COUNCIL:**

A. NONE.

**AGENDA ITEM #17 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER.**

Mayor Schlum noted that staff would be bringing back the General Plan at the next meeting.

Mr. Davis said that he recently sent the Council some information about a proposed Aviation Committee and indicated his willingness to respond to any questions from the Council regarding the Committee at this time. He encouraged the Council to thoroughly review the materials and wished them all a very safe and Merry Christmas.

The Mayor wished everyone a very Merry Christmas.

**AGENDA ITEM #12 – ADJOURNMENT.**

Councilmember Contino **MOVED** that the Council adjourn the meeting and Councilmember Dickey **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The meeting adjourned at 8:05 p.m.

**TOWN OF FOUNTAIN HILLS**

By \_\_\_\_\_  
Mayor Jay T. Schlum

ATTEST AND  
PREPARED BY:

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 17th day of December, 2009. I further certify that the meeting was duly called and that a quorum was present.

Dated this 7<sup>th</sup> day of January 2010.

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk